

FY 2023 Impact Report

A Report to the Mississippi Legislature
Report #Impact2023
July 1, 2023



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The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A joint committee, the PEER Committee is composed of seven members of the House of Representatives appointed by the Speaker of the House and seven members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms, with one Senator and one Representative appointed from each of the U.S. Congressional Districts and three at-large members appointed from each house. Committee officers are elected by the membership, with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of four Representatives and four Senators voting in the affirmative.

Mississippi's constitution gives the Legislature broad power to conduct examinations and investigations. PEER is authorized by law to review any public entity, including contractors supported in whole or in part by public funds, and to address any issues that may require legislative action. PEER has statutory access to all state and local records and has subpoena power to compel testimony or the production of documents.

PEER provides a variety of services to the Legislature, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, the agency examined, and the general public.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

Table of Contents

| | |
|--|----|
| Report #671 <i>Issue Brief: A Review of the Mississippi Department of Corrections’s Response to the COVID-19 Virus and Use of Federal Funds</i> | 1 |
| Report #672 <i>A Review of State Agency Procurement</i> | 3 |
| Report #673 <i>Management of Offender Data and Records by the Mississippi Department of Corrections</i> | 5 |
| Report #674 <i>A Review of the Division of Medicaid’s Non-Emergency Transportation</i> | 7 |
| Report #675 <i>An Overview of Visitation Protocols at the Mississippi Department of Corrections</i> | 9 |
| Report #676 <i>A Review of the Mississippi Board of Barber Examiners</i> | 10 |
| Report #677 <i>FY 2022 Annual Report: Analysis of Funding for Mississippi Charter Schools and the Charter School Authorizer Board</i> | 12 |
| Report #678 <i>Issue Brief: A Review of the Work Release Programs of the Harrison, Lee, and Rankin County Sheriffs’ Departments</i> | 14 |
| Report #679 <i>Mississippi Department of Corrections’ FY 2022 Cost per Inmate Day</i> | 16 |
| Report #680 <i>Issue Brief: A Review of Parker’s Law Convictions</i> | 18 |
| Report #681 <i>FY 2022 Annual Report: A Review of the Mississippi Development Authority Tourism Advertising Fund</i> | 19 |
| Report #682 <i>2022 Statutory Review of Mississippi’s Education Scholarship Account Program</i> | 20 |
| Report #683 <i>Issue Brief: Opportunities for Implementing Increased Centralization in Procurement</i> | 22 |
| Report #684 <i>A Review of the Pat Harrison Waterway District’s Current Financial Status and Its Efforts to Plan for Capital Outlay Needs</i> | 23 |
| Report #685 <i>2022 Update on Financial Soundness of the Public Employees’ Retirement System</i> | 25 |

| | |
|--|----|
| Report #686 <i>A Review of the University of Mississippi Medical Center’s TEAM Clinic</i> | 27 |
| Report #687 <i>A Review of Electronic Monitoring Oversight by the Mississippi Department of Corrections</i> | 28 |
| Report #688 <i>A Follow-up Review of the Mississippi State Parole Board</i> | 30 |
| Report #689 <i>A Review of the Administration of Selected Coastal Resiliency and Restoration Funds in Mississippi</i> | 32 |
| Impact: Legislative Support | 34 |

CONCLUSION: This issue brief addresses MDOC's initial and current responses to COVID-19. PEER reviewed recommendations in *Interim Guidance* to ascertain if MDOC's policy and procedures to combat COVID-19 aligns with CDC's advice for mitigating and preventing transmission of the virus in correctional facilities. PEER staff selected a sample of 24 recommendations from the *Interim Guidance* to determine if MDOC's COVID-19 Pandemic Response Plan was in conformity with CDC's guiding principles for correctional facilities.



BACKGROUND

Mississippi Department of Corrections

MISS. CODE ANN. Section 47-5-10 (1972) designates the Mississippi Department of Corrections (MDOC) as the state agency tasked with the care and custody of adult offenders committed to MDOC by the courts.

MDOC is responsible for the following active facilities: five state prisons, two private prisons, fifteen county/regional correctional facilities throughout the state, six community work centers, and two restitution centers.

COVID-19

On March 14, 2020, Governor Reeves declared a State of Emergency due to the high risk of a COVID-19 outbreak in Mississippi.

Once COVID-19 was declared a pandemic, it became MDOC's responsibility to protect incarcerated persons from contracting the virus and treating those who had already contracted it.

MDOC received \$20 million from the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act in 2020, and \$80 million in federal funds through the American Rescue Plan (ARPA) Act in 2021.



KEY FINDINGS

- **MDOC focused its efforts to limit the spread of COVID-19 within its facilities rather than on testing inmates to determine exposure for early identification of COVID-19 cases.**

Acting under authority granted by Governor Reeves's Executive Order No. 1458 (March 14, 2020), MDOC focused on actions meant to limit the spread of the virus within MDOC facilities.

- **MDOC adopted policies and procedures in its Pandemic Response Plan that aligned with CDC's guiding principles for correctional facilities.**

To provide guidelines for correctional and detention facilities, CDC developed *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities* (*Interim Guidance*).

- **After a review of MDOC's COVID-19 Pandemic Response Plan, PEER found that each of the 24 recommendations were compliant with CDC's guiding principles.**

However, it is unclear if MDOC implemented all of these policies and procedures with fidelity.

- **MDOC administered the COVID-19 vaccine at a much higher rate in comparison to the general population (i.e., 93% of inmates vaccinated with at least one dose versus 65.2% of the Mississippi population ages 18 through 64).**

MDOC stated in the press release that while vaccinations are not mandatory, vaccinations are one of the best tools to protect other inmates and allow them to resume some sense of normalcy (e.g., visitation with loved ones).

- **According to VitalCore, COVID-related deaths account for only 1.8% of the total reported positive cases. However, it is uncertain if this number is reflective of the true COVID-related death count.**

According to the Office of Forensic Laboratories within the State Medical Examiner's Office, there have been only 20 confirmed COVID-related deaths for persons in MDOC custody.

MDOC COVID-19 Testing

Commissioner Cain noted that MDOC's strategy was designed to eliminate and mitigate the spread of COVID-19 rather than focusing on testing for early identification of the virus. According to MSDH leadership, MDOC even declined additional direct financial support through a COVID-19 testing program designed for correctional facilities.

MDOC reported administering 3,808 COVID-19 tests for Calendar Year 2021 through May 3, 2022. Of the total COVID-19 tests administered by MDOC, 1,505 inmates tested positive (39.5%), and 2,303 inmates tested negative (61.5%) for the virus.

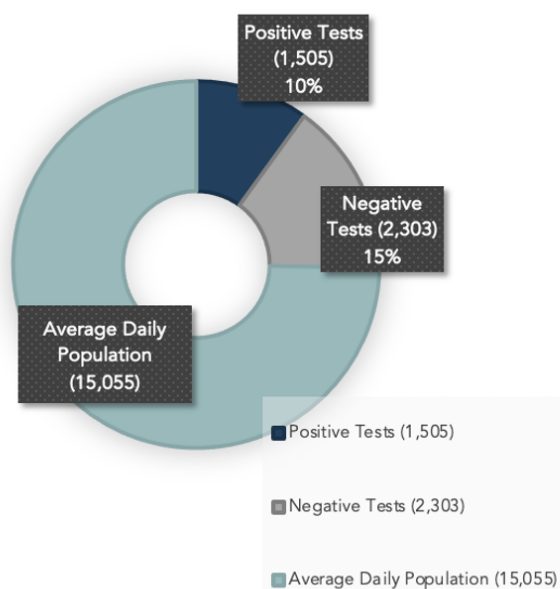
MDOC's Medical Expenditures

While MDOC medical spending continued to increase from FY 2018 through FY 2021, the greatest increase in medical spending was attributed to the change in the contracted medical provider prior to the COVID-19 pandemic.

MDOC provides comprehensive medical, dental, and mental health services to all incarcerated persons in its facilities. These medical services are provided by a contracted medical service provider.

MDOC's yearly medical spending remained relatively constant from FY 2015 through FY 2018. Further, the Legislative Budget Office (LBO) estimates that MDOC's medical spending will see a decrease by approximately 11.5% for FY 2022. Therefore, the COVID-19 pandemic did not necessarily create a significant increase in MDOC medical spending.

COVID-19 Testing Data as of May 3, 2022



MDOC's Use of Special COVID-19 Funds

House Bill 1728

During the 2020 Regular Session, H.B. 1728 appropriated additional funds to support various state agencies during the COVID-19 pandemic. The funds were appropriated from the Budget Contingency Fund as part of the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act. MDOC received \$20 million to be used to address issues related to the pandemic.

Funds were used for expenses in categories such as equipment (e.g., video conference monitors), professional services (e.g., circuit upgrades), software and subscriptions (e.g., community corrections virtual officer-offender contacts and supports), hygiene and sanitizers, and grant funds. Equipment was the highest expense.

Senate Bill 3062

Appropriated through S.B. 3062 of the 2022 Regular Session, MDOC received \$80 million in federal funds through the American Rescue Plan (ARPA) Act of 2021. Funds were specifically intended for capital projects at MDOC facilities. MDOC compiled a list of 28 projects across 12 correctional facilities using ARPA funds.



Considerations for MDOC

Based on the review of MDOC's COVID-19 documentation and data provided to PEER, MDOC should consider the following:

- utilize the lessons learned from its COVID-19 Pandemic Response Plan and incorporate applicable elements from this plan into its overall disaster/emergency preparedness strategy;
- review data submitted by both VitalCore and the county/regional facilities to ensure its accuracy, completeness, and validity; and,
- standardize reporting requirements among all facilities so that data is consistently and uniformly captured, reported, and shared among stakeholders.

CONCLUSION: From January 2018 to June 2022, 23 out of 123 personal services procurements were not approved (e.g., withdrawn by the agency or recommended for disapproval by PPRB staff) due to best practices violations. The two most common reasons for a procurement not being approved were blind scoring violations and violations against public notice or publication of documents. The estimated cost of the procurements that were not approved was \$271,188.



BACKGROUND

Prior to 1997, state agencies in Mississippi had freedom to select contractors for personal services with minimal oversight. In 1997, the Mississippi Legislature created the Personal Service Contract Review Board (PSCRB) to set standards for the procurement of personal service contracts. Some specific contracts were excluded from this oversight. In 2017, the Mississippi Legislature merged the functions of PSCRB with PPRB. The legislatively mandated best practices began governing personal service contracting, which ensured a competitive selection process.

Codified in MISS. CODE ANN. Section 31-7-401 (1972) et seq., procurement best practices established all requirements for the process. The most relevant standards include:

- relief from competitive sealed bidding;
- content requirements for RFP/RFQ process;
- public notice and publication of documents;
- evaluation factors;
- evaluation committee requirements; and,
- blind scoring.

MOST COMMON METHODS OF PROCUREMENT

- **Competitive Sealed Bidding (CSB)** is the preferred method for state procurement in which bids are evaluated based on the lowest and best bid.
- **Request for Proposals (RFP)** is used when an agency is seeking a service that is complicated and will require evaluation of many factors other than price alone. Proposals are evaluated based on weighted criteria.
- **Request for Qualifications (RFQ)** is used when an agency knows the service it wants and wants to ensure that experienced and talented offerors are solicited for the contract. Qualifications are evaluated based on weighted criteria.

PROCUREMENT PROCESS FOR RFP OR RFQ





KEY FINDINGS

- **Have agencies had any issues with the best practices?**

From January 2018 to June 2022, the two most common reasons that a procurement was not approved were **blind scoring** violations and violations against **public notice or publication of documents**.

- **How many procurements have not been approved since 2018?**

Out of 123 procurements submitted to DFA since 2018, 91 were approved and 32 were not approved. Of the 32 that were not approved, 23 had best practices violations and 9 were not approved for other reasons.

- **What has been the impact of disqualified procurements?**

PEER estimated the cost of the 22* procurements that were not approved due to best practices violations to be \$271,188. Additionally, at least 9 emergency contracts resulted from those 22 procurements.

- **How is DFA addressing policy issues?**

- **Midpoint review:** In order to prevent procurements from not being approved because of errors such as blind scoring violations, DFA staff will begin implementing a midpoint review. A soliciting agency will be able to submit its procurement(s) to DFA before the evaluation committee begins its scoring process. DFA would be able to catch errors before the procurement has been evaluated and scored.
- **Secondary evaluation committee:** An alternative solution suggested by DFA staff to mitigate unnecessary disapproved procurements—particularly resulting from blind scoring violations—is to create a secondary evaluation committee. If DFA staff discovers a blind scoring violation after the procurement has already been evaluated by the soliciting agency's initial evaluation committee, DFA staff could send the procurement back to the agency. The agency could then correct the error and submit the corrected procurement to a new evaluation committee.

** PEER analyzed 22 of the 23 procurements that were not approved due to best practices violations. PEER did not analyze financial data from Medicaid's attempted procurement with MedImpact Healthcare System because this procurement is currently the subject of administrative review.*



RECOMMENDATIONS

1. DFA should implement its midpoint review and the secondary evaluation committee as a means of corrective action for policy issues noted in this report (e.g., blind scoring violations); and evaluate the success of the midpoint review, and if successful, return to the Legislature during the 2024 Regular Legislative Session to update the PEER Committee and the Senate and House Accountability, Efficiency, and Transparency Chairmen on its progress.
2. DFA should build a series of information quick reference guides and make them easily accessible on its website which detail:
 - a. a step-by-step guide to the RFP/RFQ process;
 - b. important RFP/RFQ requirements; and,
 - c. a general Frequently Asked Questions section for the RFP/RFQ process.

CONCLUSION: MDOC maintains unreliable, inaccurate, and incomplete data and records for some offenders under the state's custody, which could impact decisions made by internal and external stakeholders (e.g., MDOC staff, the Legislature), and could impact the care and rehabilitation of offenders.



BACKGROUND

MISS. CODE ANN. § 47-5-10 (1972) designates MDOC as the state agency responsible for accepting adult offenders committed by the courts for incarceration, care, custody, treatment, and rehabilitation. As part of its responsibilities, MDOC must maintain up-to-date and complete records for all adult offenders sentenced to its custody and housed within 68 correctional facilities across the state.

MDOC has three main sources for maintaining an offender's record, including:

- **Offendertrak** (i.e., adult offender database management information system);
- **Legato** (i.e., electronic filing cabinet); and,
- **hard copy records.**

MDOC's Division of Records creates an offender's record upon entry, and facility staff across the state have the responsibility of editing and updating these records.

It is critical that offender records and data be complete, accurate, valid, confidential, and available so that internal and external stakeholders can make effective, data-driven decisions regarding offenders.



KEY FINDINGS

- **MDOC has limited controls over user access and permissions, which has resulted in duplicate user accounts and account errors.**

MDOC does not ensure that user access and permissions are aligned with current job responsibilities. Further, it does not consistently assign, update, and remove users from the system, which could affect the security and integrity of offender data.

- **Data in Offendertrak does not consistently match the source documentation scanned into Legato. As a result, some offender records include incomplete, inconsistent, and missing information.**

PEER's review of 100 active MDOC offender records revealed several instances of incomplete, missing, and nonmatching offender data, including: missing documentation required by state law and/or MDOC policy, poorly scanned documents in Legato, missing or conflicting level of education data, outdated/missing pictures of offenders, nonmatching social security numbers, and misspelled or incorrect offender names.

- **MDOC's offender program data is unreliable, inaccurate, and incomplete. This limits the effectiveness and efficiency of rehabilitation and re-entry decisions made by MDOC.**

In the sample of 100 active offender records, 66 offenders participated in a program while incarcerated (e.g., alcohol and drug abuse program). None of the records for the 66 offenders who participated in a program were complete and accurate in Offendertrak and/or Legato. For example, records include incorrect dates of program completion and missing certificates of completion.

- **Data in OffenderTrak is not consistently updated for all offenders, resulting in outdated and inaccurate records.**

For example, PEER's review of 100 records resulted in the identification of a deceased offender (as of November 2021) listed as active by MDOC. This offender was housed in another state and never served time with MDOC; however, he was still under the state's jurisdiction. MDOC did not properly maintain this offender's record by determining his status or location.

- **Other data issues observed by PEER include:**
 - unclear and erroneous OffenderTrak reports, issues with disciplinary and incident reports, inconsistent reporting of escapees, impossible birth dates and release dates, and errors in sentence computation when updating an offender's record.
- **As a result of MDOC's unreliable data:**
 - the Legislature might not effectively use MDOC's data to make the most informed decisions regarding policy and the funding of the state's correctional system;
 - MDOC staff cannot ensure they are making the most effective and efficient decisions regarding the management of offenders and operation of facilities; and,
 - offenders could be improperly classified, housed in an inappropriate or dangerous location, incarcerated beyond their release date, not earning credit for programming, and unable to effectively reenter society upon release.
- **Reasons for MDOC's unreliable data include:**
 - issues with Offendertrak (e.g., the system is regularly unavailable to facility staff, produces erroneous reports and incorrect release dates, and lacks automation needed to identify potential data errors or inconsistencies);
 - issues with MDOC's management and processes (e.g., lack of agreement as to which source constitutes an offender's master record, limited training on the use of systems, and inefficient and inconsistent policies and procedures); and,
 - other external issues (e.g., systems at regional facilities, private prisons, and county jails do not interface with OffenderTrak).
- **OffenderTrak is an outdated and inefficient legacy system that is nearing the end of its useful life and will no longer be supported by the system's vendor as of June 30, 2025.**

MDOC has not begun to plan for transitioning to a new offender management information system. The goals of a new system should be to collect data that is structured to facilitate analysis that can be used by MDOC, prison facility staff, and policymakers to make more informed decisions regarding offenders, and ensure that data entered into the system is accurate and complete.



SUMMARY OF RECOMMENDATIONS

Legislature

To increase the integrity of MDOC's data, the Legislature should consider enacting legislation to require the Mississippi Department of Information Technology Services (ITS) to provide special assistance to MDOC, including but not limited to updating all offender records and planning, selecting, and procuring a new offender management information system. To fund this assistance, the Legislature should consider either providing the funding through its annual appropriations to ITS, or requiring MDOC to pay ITS expenditures associated with the project.

MDOC

MDOC should improve its management of offender data by: implementing internal controls (e.g., updating user roles and permissions across all facilities, defining what source constitutes the master record), conducting quality assurance on information produced in its reports, annually reviewing offender programs to ensure proper documentation, and providing annual training for all users on how to effectively use the data systems.

CONCLUSION: The NET program provides non-emergency transportation for Medicaid beneficiaries to and from covered medical services, as required by federal law. From February 2019 to February 2022, NET averaged 5,199 utilizers per month and 141,714 non-utilizers per month, a 3.5% utilization rate. Non-utilizers comprised 91.5% of NET costs compared to utilizers comprising 8.5% of NET costs over the period from February 2019 to February 2022. MTM reported 58% of total NET trips for CY 2021 was related to dialysis appointments.



BACKGROUND

MISS. CODE ANN. § 43-13-117 (1972) requires the PEER Committee to conduct a performance evaluation of the Division of Medicaid's (DOM) non-emergency transportation (NET) program to evaluate the administration of the program and the providers of transportation services to the program's patients.

Medicaid provides transportation assistance to eligible Medicaid beneficiaries for travel to and from scheduled medical appointments when there are no other means of getting to and/or from the appointment (e.g., person does not own or have access to a vehicle).

States may choose which delivery model to utilize to deliver NET services. Mississippi uses a private brokerage model. Medical Transportation Management, Inc., (MTM) has served as the state's NET broker for Medicaid fee-for-service beneficiaries since 2013.

The NET program offers multiple types of transportation modes, with vehicles that can accommodate any type of accessibility assistance beneficiaries may need (e.g., wheelchair access, ambulances with medical staff).

MTM reported 58% of total NET trips for CY 2021 were related to dialysis appointments.



KEY FINDINGS

- In 2018, DOM switched to a utilization-based contract, but this contract did not result in any direct cost savings.**

Because of DOM's scoring method for the 2018 invitation for bid, including how DOM weighted bid proposals and the lack of a cost cap for non-utilizer costs, the contract did not result in any direct cost savings.

 - Average NET costs from Feb. 2019 to June 2020: \$3,023,540
 - Average NET costs from Feb. 2019 to Feb. 2022: \$3,557,164
- Though the number of eligible NET beneficiaries increased, NET utilization has declined since 2019.**

Despite an increase in the number of eligible NET beneficiaries from 124,040 in July 2020 to 308,577 in May 2022, NET utilization declined from 5,925 (from February 2019 to June 2020) to 4,583 (from July 2020 to February 2022).
- In 2021, DOM negotiated with MTM to reduce the price per non-utilizer from \$25 to \$21.**

This renegotiation reduced the cost cap through September 30, 2023, from \$169,358,094 to \$156,720,628.
- DOM suspended payment to MTM in January 2022 to avoid exceeding the cost cap in place through September 2022.**

DOM has paid \$119.9 million toward the \$125.0 million cost cap in place through September 30, 2022. If DOM reaches the cost cap, MTM must continue providing NET services.

KEY FINDINGS (continued)

- **After not assessing liquidated damages in 2020 due to COVID-19, DOM assessed \$1,027,750 in liquidated damages against MTM between January 2021 and May 2022.**

Over 60% of the liquidated damages pertained to late pickups from the home, medical provider, or hospital discharge. The next largest category (25%) pertained to instances in which MTM did not immediately move an ineligible driver or vehicle from service.

- **MTM migrated to Reveal, a new scheduling, routing, and dispatching system, in the fall of 2021.**

This new system has resulted in operational issues that impact the scheduling and provision of NET services (e.g., dispatching the wrong mode of transit, trip cancellations prior to beneficiary transport, address errors). DOM and MTM have established an operational council consisting of MTM, DOM, and four NET providers to meet weekly to work through such operational issues.

New Laws

1. Congress passed the Consolidated Appropriations Act of 2021, requiring states to assure necessary transportation for Medicaid beneficiaries to and from covered services.
2. The Legislature passed Senate Bill 2739, 2022 Legislative Session, establishing a permitting process and regulations for all NET providers (e.g., Medicaid NET as well as long-term residential, workers compensation, and rehab services). The permitting process and regulations are implemented by the Mississippi State Department of Health (MSDH). All NET providers must obtain a permit by July 1, 2023, or cease service.

Driver/Vehicle Credentialing

DOM reported MTM has removed 156 drivers and 277 vehicles from the NET program since January 2020, utilizing criteria specified in the Mississippi Administrative Code.

NET drivers and NET vehicles must be approved prior to commencing service. NET drivers must be re-credentialed every 12 months. NET vehicles must pass inspection at least every six months.

As a result of COVID-19 and the Families First Coronavirus Response Act, the number of non-utilizers increased. Non-utilizers comprised 91.5% of NET costs (compared to utilizers comprising 8.5%) over the period from February 2019 to February 2022.

When procuring a new vendor for the 2023 NET contract, the Division of Medicaid should:

- consider altering the payment methodology to more align with services provided;
- address gaps in areas covered by liquidated damages;
- add a clause to permit the assessment of punitive damages;
- amend the beneficiary satisfaction survey process;
- add a method to obtain formal feedback from non-utilizers; and,
- add a method to obtain formal feedback from NET providers.

CONCLUSION: This issue brief addresses MDOC's current safety protocols regarding the entry of people who are not MDOC staff onto MDOC facility grounds. In addition, this issue brief provides an overview of visitation statistics including the number of visitors MDOC facilitates and the frequency and causes of visitation suspensions or terminations. While none of the three facilities adhered strictly to MDOC policy and procedure, all three facilities took active steps to ensure that facility security would not be compromised during PEER's review.



BACKGROUND

Mississippi Department of Corrections

MISS. CODE ANN. § 47-5-10 (1972) designates the Mississippi Department of Corrections (MDOC) as the state agency tasked with the care and custody of adult offenders committed to MDOC by the courts.

MDOC is responsible for the following active facilities: five state prisons, two private prisons, fifteen county/regional correctional facilities throughout the state, six community work centers, and two restitution centers.

Division of Institutions

Within MDOC, the Division of Institutions is responsible for protecting public safety through the confinement of offenders. The Division of Institutions provides both the administration and operation of correctional facilities in the state. This includes providing offenders in MDOC custody with treatment, education, and vocational programs that will better prepare them in returning to the community upon release.

The Division of Institutions is also responsible for the operation of the Training Division and the Administrative Remedy Program.



KEY FINDINGS

- **MDOC has adopted policies and procedures that comply with ACA standards and expected practices.**
After a review of MDOC's visitation policy, PEER found that each of ACA's 15 expected standards and practices outlined for visitation was found in MDOC policy and procedure.
- **In order to be admitted into a MDOC facility as a visitor, individuals must submit certain information and abide by certain rules of conduct prior to, during, and after visiting an offender.**
Visitation can be denied, suspended, and/or revoked for both offender and visitor if MDOC policy and procedure for visitation is not followed by either the inmate or his or her proposed visitor.
- **During the five-year time span (January 2017 to August 2022), SMCI suspended 272 visitors for forbidden contraband and/or failing to comply with rules of conduct.**
SMCI was the only facility to provide PEER staff with requested reports. A review of SMCI visitation suspensions revealed that the top three reasons for visitors' suspensions were due to confiscation of tobacco and related products, tools, and weapons. The lowermost three reasons for visitors' suspensions were due to confiscation of controlled substances, explosives, and other contraband.
- **On-site inspections of visitation units and their associated policies and procedures at three MDOC facilities indicate that ACA standards and expected practices are mostly being followed.**

Conclusions: All three facilities visited had varying security measures in place. Because of the announced nature of the site visits, security protocols during this review most likely do not represent true MDOC practice for admitting persons onto facility grounds. Regardless, PEER staff observed no indications that safety of any party was at risk during the visitation.

**An Overview of Visitation Protocols at the Mississippi Department of Corrections
November 1, 2022**

For more information, contact: (601) 359-1226 | P.O. Box 1204, Jackson, MS 39215-1204
Representative Jerry Turner, Chair | James F. (Ted) Booth, Executive Director

CONCLUSION: The Mississippi Board of Barber Examiners (Barber Board) is responsible for regulating the profession of barbering. The Barber Board experiences several issues that decrease the effectiveness and efficiency of the Board including: issues with regulatory activities, issues with financial management and controls, and administrative issues. Because the Barber Board and the Mississippi State Board of Cosmetology oversee licensees with similar scopes of practice and have both demonstrated substantial deficiencies in their operations (also see PEER Report #665), the state could benefit from a solution that would help address the boards' problems and also result in cost savings (i.e., placement of both boards under the Mississippi Department of Health).



BACKGROUND

Barbering is defined in MISS. CODE ANN. § 73-5-39 (1972).

Board

The Barber Board is composed of five members that serve four-year terms. The Barber Board regulates schools, barber shops, and individuals by determining school curricula, issuing licenses, and establishing and enforcing its *Rules and Regulations*.

Staff

MISS. CODE ANN. § 73-5-3 (1972) authorizes the Board to employ staff members to assist with Board activities. As of June 6, 2022, the Board employs two full-time staff members and three part-time inspectors.

Funding

The Barber Board is a special fund agency supported by funds collected from licensing, inspection, and examination fees. Additionally, the Board is supported by funds for fines collected from disciplinary actions.

The Barber Board regulates 35 schools, 2,099 shops, and a total of 2,896 total practitioners (2,756 barbers and 140 instructors).



KEY FINDINGS

- **Mississippi has more restrictive prerequisites to qualify for barber licensure testing than 40 states.**

The new universal licensing law has resulted in a competitive disadvantage for Mississippi residents. Further, age and education requirements defined in the Board's *Rules and Regulations* conflict with those required by statute.

- **The Board's examination practices are not effective in evaluating a candidate's preparedness for licensure.**

The Board's state laws exam lacks content validity, as six of the ten total questions do not ask valid, job-related questions. The Board's examination practices may also hinder accessibility for some licensure candidates. Additionally, the Board lacks detailed scoring criteria for the practical exam, and Board members do not receive training on administration of the exam.

- **In FY 2022, 39% of candidates' attempts to pass the required licensure exams resulted in grades sufficient for licensure.**

The Board does not compile or share the data required to evaluate student success trends and lacks regulations to address underperforming schools. This limits transparency and inhibits a school's ability to assess its own performance.

- **In FY 2022, the Board's inspectors only conducted 191 inspections of the 2,134 barber shops and schools licensed by the Board.**

Additionally, the Board lacks a uniform process for conducting inspections and imposing fines for violations.

- **Until August 2022, Barber Board members were unaware that the owner of the barber school Trendsetters had been convicted of fraud despite the fact that the Board's chief inspector testified in court about the case in 2021.**

Upon learning about the case, the Board did not immediately take action to revoke the licenses of the school and its owner. The Board's delayed action suggests a significant deficiency in the Board's enforcement capabilities and actions.

Issues with Per Diem and Travel Reimbursement

In FY 2022, the Barber Board experienced the following issues with per diem and travel reimbursement:

- paying Board members for days in which they performed no official Board duties;
- paying Board members and staff for meals which could be seen as an inefficient use of Board resources;
- reimbursing travel expenses without sufficient documentation, authorization, and receipts; and,
- erroneously reimbursing staff at a lower rate for mileage than the rate set in state policy.

Additionally, approximately 25% of the Board's travel expenses for FY 2022 can be attributed to the Board's part-time chief inspector, who performs regular administrative duties in Jackson but lives in another geographical region in the state. While not a violation of state law, paying this employee to regularly travel to and from Jackson could represent an inefficient use of resources.

Issues with Internal Controls

The Barber Board lacks an effective internal control environment, which increases the risk of financial mismanagement (e.g., fraud). It could also compromise the accuracy and completeness of the Board's accounting records. The Board has also experienced issues with segregation of duties and surety bonds.

Issues with Financial Management

The Barber Board's imprudence in its financial management has negatively impacted the Board and its licensees. The Board has experienced the following financial management issues:

- The Barber Board's lack of knowledge and expertise related to required retirement contributions cost the Board and its licensees \$19,970.71 in delinquent interest payments.
- The Barber Board might have extended its current lease with terms that are not in the state's best interest (e.g., lowest price) and could have negatively impacted the Board's budget.
- The Barber Board deposits licensee payments approximately every three days, with only 11% of the agency's deposits made in compliance with the two-day requirement outlined in state law.

Other Administrative Issues

- Records and data management: Records are insufficient to easily determine regulatory information and are not easily accessible to Board staff.
- Board's current office location: The Board office is not located in a state-owned office building and has not been easily accessible to licensees or the public since March 2020. Additionally, the office is not conducive to public participation during Board meetings.



SUMMARY OF RECOMMENDATIONS

The Legislature should consider:

- dissolving the Barber Board and the State Board of Cosmetology to create a Barbering Advisory Council and a Cosmetology Advisory Council within the Mississippi Department of Health's Professional Licensure Division; and,
- amending MISS. CODE ANN. § 73-5-1 (1972) et seq., to set minimum age and education requirements comparable to those in contiguous states, to allow practitioners to qualify for licensing examinations through apprenticeship hours in lieu of schooling hours, and to prohibit Board members from administering exams.

The Board should:

- establish regulations to address underperforming schools;
- compile and distribute data on exam scores to licensed schools, and make this data publicly available;
- amend its *Rules and Regulations* to be consistent with MISS. CODE ANN. § 73-5-1 et seq.;
- amend its examination practices to ensure exams are up-to-date, effective, and accessible;
- ensure transparency and efficient use of public funds by improving its compliance with state law and Department of Finance and Administration (DFA) travel reimbursement policies;
- adopt and enforce policies and procedures that strengthen internal controls and financial management;
- adhere to DFA policies related to leasing office space; and,
- improve its records, management of information, and accessibility of its data.

CONCLUSION: Funding from state, local, federal, and other sources was sufficient for charter schools in FY 2022. However, the local ad valorem pro rata calculation required by state law continues to provide for unequal shares between charter schools and school districts. MCSAB receives 3% of annual state and local per-pupil revenues from charter schools. In FY 2022, MCSAB expended \$320,454 on its operations. FY 2022 was the fourth year the statutory formula generated sufficient funding to support MCSAB's activities. Having analyzed several consecutive years of financial data from MCSAB, PEER contends that MCSAB has achieved the financial stability to operate on less than 3% of charter school revenues. MCSAB is operating under a no-cost extension of its federal Charter School Program (CSP) grant with a term end date of September 30, 2023.



BACKGROUND

Background

MISS. CODE ANN. Section 37-28-7 (3) (1972) outlines the composition of the Mississippi Charter School Authorizer Board (MCSAB). The Board is made up of seven appointed members and is the sole authorizing body for charter schools in the state.

Although MCSAB Board members serve staggered terms of office, this has resulted in three of the Board members rotating off in the same year, which could prevent the Board from establishing a quorum at its meetings.

As of October 2022, the Board had two staff members.

During the 2022 application cycle, MCSAB approved one charter school application—Instant Impact Global Prep—at the recommendation of its contractor, SchoolWorks.

During SY 2021–2022, seven charter schools (five located in Jackson, one located in Clarksdale, and one located in Greenwood) served 2,686 students. No new charter schools opened during SY 2021–2022.



SUFFICIENCY OF CHARTER SCHOOL FUNDING

- **For FY 2022, MDE distributed Mississippi Adequate Education Program (MAEP) funding to charter schools in the same manner as the local public school districts in which they are located.**
- **For FY 2022, the seven operating charter schools received local support payments from ad valorem taxes in a manner consistent with MISS. CODE ANN. Section 37-28-55 (2) and (3) (1972).**
However, the local ad valorem pro rata calculation required by the statute provides unequal shares between charter schools and school districts.
- **Federal funds received by the Mississippi Department of Education (MDE) are distributed to each public school district and charter school based on the school's ability to meet federal program requirements.**
In FY 2022, the charter schools that were operating that year received federal grant funds totaling \$11,818,985.
- **In FY 2022, the seven operating charter schools received between \$3.1 million and \$7.4 million from MAEP funding, local ad valorem taxes, federal funds, and other sources.**
Six of the seven charter schools operating in Mississippi received revenues in FY 2022 that were sufficient to cover their expenditures that year.
- **Despite state law designating MCSAB as a "state agency," MCSAB's annual appropriation is included in the IHL appropriation.**
- **MCSAB receives 3% of annual per-pupil allocations received by charter schools from state and local sources.**

FY 2022 was the fourth year this statutory formula generated sufficient funding to support MCSAB's activities. In FY 2022, MCSAB did not collect all of the 3% fees it was owed from one charter school because it was the first year in which a school district lacked sufficient January MAEP revenue to provide its pro rata share of funds to a charter school.

Status of the CSP Grant

According to MCSAB staff, it requested a 12-month no-cost extension for its CSP grant on June 2, 2022. USDOE informed MCSAB that it could not rule on its request until late September, and that if another entity from the State of Mississippi were to be approved for an FY 2022 CSP grant, then USDOE would not approve MCSAB's request for a no-cost extension.

On October 3, 2022, Mississippi First announced that it had been awarded a \$19.3 million CSP grant from USDOE.

MCSAB wrote a letter to USDOE expressing concern that some of the information provided in Mississippi First's grant application to USDOE was inaccurate. It also requested approval of MCSAB's second no-cost extension.

On October 31, 2022, USDOE responded to MCSAB stating that it is approving a second 12-month no-cost extension to enable MCSAB to continue administering its two remaining subgrants (to SR1 and Revive Prep), including technical assistance to those subgrantees, through September 23, 2023. USDOE also stated that it will re-examine Mississippi First's application to verify the accuracy of the information provided and take appropriate action, if necessary.

Because USDOE has granted both Mississippi First and MCSAB authority to provide CSP subgrants to SR1 and Revive Prep for FY 2023, the roles and responsibilities of Mississippi First and MCSAB are presently ambiguous.

Accountability Grades

In SY 2021-2022, six out of seven charter schools received accountability grades. Joel E. Smilow Collegiate received a B, the highest accountability grade among the charter schools for SY 2021-2022, and was the only Jackson charter school that received a higher grade than its home district.

Charter School Performance

MCSAB must annually assess each charter school's performance. MCSAB's FY 2022 performance report was not yet available as of October 24, 2022; therefore, PEER utilized student Mississippi Academic Assessment Program (MAAP) assessment data and student accountability letter grades provided by MDE.

MAAP is a state assessment that measures students' knowledge, skills, and academic growth in third through eighth grades in English language arts (ELA), math, and science. ELA and math assessments are given in third grade, while the science assessment is given in fifth grade.

In SY 2021-2022, each of the seven charter schools experienced mixed MAAP results compared to its home district. In all three academic areas—ELA, math, and science—a higher percentage of students statewide scored proficient or advanced on assessments than students in charter schools and students in charter school home districts.



SUMMARY OF RECOMMENDATIONS

1. The Legislature should consider removing the 3% funding MCSAB receives from charter schools' state and local revenue sources. The Legislature should also consider annually funding MCSAB from any funds available to the Legislature. If the Legislature chooses to keep the 3% funding model, it should consider allowing MCSAB to receive up to 3% of annual per-pupil allocations received by a charter school from state and local funds for each charter school it authorizes. If the Legislature authorizes MCSAB to receive up to 3% of per-pupil allocations, then MCSAB should develop a policy for determining the appropriate calculation of fees for charter schools, based on several consecutive years of MCSAB's financial data.
2. The Legislature should consider enacting a separate appropriations bill for MCSAB.
3. MCSAB should submit a proposed amendment to MISS. CODE ANN. Section 37-28-7 (2) and (3) that revises the calculation so that public school students and charter school students receive equal per-pupil local ad valorem funding.
4. The Legislature should consider reconstituting the Board to establish terms of office that, when concluded, minimize the impact on the Board's operations.
5. MCSAB should collect the \$2,264.10 in 3% fees from Clarksdale Collegiate and count it as FY 2022 revenue.
6. MCSAB and all of its committees should adhere to policies that MCSAB has approved.
7. The PEER Committee should consider expanding PEER's FY 2023 charter school review to include an assessment of charter school authorizing best practices.



**FY 2022 Annual Report: Analysis of Funding for Mississippi Charter Schools
and the Charter School Authorizer Board
November 30, 2022**

For more information, contact: (601) 359-1226 | P.O. Box 1204, Jackson, MS 39215-1204
Senator Kevin Blackwell, Chair | James F. (Ted) Booth, Executive Director

CONCLUSION: H.B. 586 mandates that the PEER Committee shall conduct a review of the work release program and provide a report to the Legislature by December 1, 2022. While the Rankin County Sheriff's Department established a standard operating procedure for its work release program and issued it in July 2021, it has not established any formal goals or objectives for the program that can be used to measure the program's success. Lee County did not provide any data because it has not yet developed its work release programs.



BACKGROUND

Justice Reinvestment

Over the last 15 years, many states have taken steps to reduce their prison populations while maintaining public safety. Since 2010, more than 35 states have begun to take steps to reduce imprisonment rates through "justice reinvestment."

When using a justice reinvestment approach, states collect and analyze data regarding corrections costs and prison population growth. They use that data to implement changes that increase fiscal efficiency and maintain public safety. In general, policy changes tend to decrease prison population by dedicating prison beds to career and violent offenders and then use saved funds on rehabilitation rather than punitive programs.

The Correctional and Criminal Oversight Task Force (585 Task Force) was created by H.B. 585, 2014 Regular Session. Since 2014, the 585 Task Force has published nine reports regarding corrections and criminal justice in Mississippi.

The 585 Task Force helped generate legislation for work release programs as an attempt to implement justice reinvestment practices in Mississippi.

Adult Re-entry Programs

According to the National Institute of Justice (NIJ), adult re-entry programs are correctional programs that focus on the transition of individuals from prison back into the community. The primary goal of a re-entry program is to teach tangible skills and help offenders obtain employment and be successful upon release.

House Bill 747, 2021 Regular Session, authorized the Rankin County Sheriff's Department to create a pilot work release program to help qualified inmates learn skills and make employment connections before their release. **House Bill 586**, 2022 Regular Session, also authorized Harrison County and Lee County to implement similar work release programs.



KEY FINDINGS

- According to H.B. 586, sheriffs from Harrison, Lee, and Rankin counties are authorized, but not required, to form pilot work release programs.**

Should one of these counties choose to implement a work release program it will be limited to no more than 25 program participants at any one time while the program is in its pilot phase. No person convicted of a crime of violence is eligible for participation in the work release program.
- Should a sheriff choose to form a pilot work release program, he or she should collect specific data regarding program participants and their earnings.**

The sheriff should submit the report to both the PEER Committee and the 585 Task Force in a sortable, electronic format. The first report was to be submitted before January 15, 2022, and then in six-month intervals following.
- Both Harrison and Lee County did not provide any data because they have not yet developed their respective work release programs.**

The law states that the sheriff's departments are authorized to form pilot work release programs if they so wish and are able. It does not require them to do so. Therefore, Harrison and Lee counties are not at odds with any statutory requirements.

Task Force 585 and Work Release Programs

2014

- H.B. 585 created the 585 Task Force, a task force specifically focused on lowering recidivism rates.

2018

- The 585 Task Force began focusing on investing more in workforce training programs.

2021

- H.B. 747, 2021 Regular Session, authorized the Rankin County Sheriff's Department to create a pilot work release program to help qualified inmates learn skills and make employment connections before release.
- In its 2021 *Final Report*, the 585 Task Force analyzed work release programs in other states and the potential benefits of developing similar programs in Mississippi.

2022

- H.B. 586, 2022 Regular Session, authorized Harrison and Lee counties to develop similar pilot work release programs.

Rankin County Program Data

The Rankin County Sheriff's Department did not provide PEER a report on its work release program data before January 15, 2022. However, it did provide the data on October 26, 2022, when requested by PEER staff.

During calendar year 2021, the Rankin County Sheriff's Department reported that the work release program had **14 total program participants**. Of these 14 participants, **three successfully completed the program** (27%). The remaining 11 participants continued in the program into calendar year 2022. Monthly earnings for these program participants ranged from a low of \$71.21 in May 2021 up to \$4,895.80 in September 2021.

During calendar year 2022, the Rankin County Sheriff's Department reported that the work release program had **16 total program participants**. Eleven of these participants carried over from participation beginning in calendar year 2021. Of these 16 participants, **eight successfully completed the program** (50%) as of September 2022. Monthly earnings for these program participants ranged from a low of \$143.88 in July 2022 up to \$3,329.24 in September 2022.

Evaluability of the Rankin County Work Program

H.B. 586 mandates that the PEER Committee shall conduct a review of the work release program and provide a report to the Legislature by December 1, 2022. While the Rankin County Sheriff's Department established a standard operating procedure for its work release program and issued it in July 2021, it has not established any formal goals or objectives for the program that can be used to measure the program's success.

In addition, recidivism is typically defined as within 36 months of initial release. Because the program does not have a long-term goal in place on a desired reduction in recidivism and has not been operational for more than three years, the Rankin County Sheriff's Department cannot yet report on the "total number of participants who completed the program and were convicted of a new crime within three years of completing the program."



RECOMMENDATIONS

Based on the current operations of the Rankin County work release program, the effectiveness of the program cannot be determined by an external third party (i.e., PEER). Some of the limitations are on the lack of performance measures while other limitations are a result of the newness of the program (i.e., less than three years of operation).

Therefore, the Rankin County Sheriff's Department should consider the following recommendations to allow its program to be evaluated for effectiveness at a later date:

1. Establish objectives, goals, and performance measures for the work release program that are specific, measurable, attainable, relevant, and time-based (attainable within a proposed period of time), i.e., SMART.
2. Continue collecting all data required by both H.B. 747 and H.B. 586, even if the data recorded is zero for some categories.
3. Ensure that program participants meet eligibility requirements as specified by H.B. 747, H.B. 586, and the Rankin County Sheriff's Department work release program standard operating procedure.
4. Produce a yearly report that specifically identifies the overall recidivism rate and post-release employment data for participants.

Provide semiannual reports and data collected and reported regarding the work release program to the PEER Committee as required by H.B. 586.



A Review of the Work Release Programs of the Harrison, Lee, and Rankin County Sheriffs' Departments November 30, 2022

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Representative Jerry Turner, Chair | James F. (Ted) Booth, Executive Director

Report #679

Mississippi Department of Corrections' FY 2022 Cost Per Inmate Day

Report Overview

Background

During its 1994 special session, the Legislature passed Senate Bill 2005 (now codified as MISS. CODE ANN. Section 47-5-1201 [1972] et seq.) to address short- and long-term bed capacity within the state's correctional system. The bill created the State Prison Emergency Construction and Management Board to expedite the contracting and construction of proposed public and private prison facilities authorized by the bill.

MISS. CODE ANN. Section 47-5-1211 (3) (a) (1972) states:

No contract for private incarceration shall be entered into unless the cost of the private operation, including the state's cost for monitoring the private operation, offers a cost savings of at least ten percent (10%) to the Department of Corrections for at least the same level and quality of service offered by the Department of Corrections.

The law also required that the state cost per inmate day be certified annually by a certified public accountant and that the certified cost be used as the basis for verifying the 10% savings required for private contractor costs. Historically, MDOC used the cost of operation of similar units and adjusted them to recognize economies of scale to arrive at a cost of operation of a 500- or 1,000-bed facility.

During its 2012 Regular Session, the Legislature passed H.B. 440 (amending MISS. CODE ANN. Section 47-5-1211 [1972]), which requires the cost per inmate day calculation to occur every two years instead of annually and to require development of a current cost-based model for the calculation. This report serves as the model for the basis of the cost per inmate day calculation.

Using the Cost-based Model Method

H.B. 440 requires MDOC to use a cost-based model to calculate the state's inmate cost per day to operate a certain type of prison facility. Given a certain number of inmates and their security classification, the model facility's projected operating costs include costs associated with the required security staffing configuration and common system-wide costs such as medical and food, and associated MDOC administrative costs. By determining the state's cost to operate the model facility, MDOC has an inmate cost per day projection that serves as the basis in negotiating with a potential contractor to operate a private prison facility at the minimum ten percent savings required by state law. Because the cost-based model approach is specific to a certain type of privately operated facility, MDOC's state cost projection does not represent MDOC's costs to operate any of the three state operated facilities—i.e., Mississippi State Penitentiary [Parchman], Central Mississippi Correctional Facility [Rankin County], and South Mississippi Correctional Institution [Greene County].

In calculating the state's costs for a model facility, MDOC projects the facility's security staffing configuration—e.g., correctional officers and their supervisors—which is based on the number of inmates to be housed in the facility and their various security classifications. Costs of the model facility also include those associated with non-security personnel, such as a Deputy Warden for Programs, case managers, chaplains, and Division of Records personnel. Some non-security personnel are independent of the number of inmates while others are dependent on the size of the facility. Other system-wide costs, such as medical, food, and MDOC administrative costs are also included in the model calculations.

Analysis of Changes in Cost Per Inmate Day

Calculated operating costs related to security personnel increased approximately 30% from FY 2020 to FY 2022. MDOC attributed this increase to a new personnel scheduling model and the implementation of the state's new compensation system.

As a component of its oversight, PEER reviewed the results of the *Mississippi Department of Corrections Schedule of Average Daily Costs Per Inmate Day for a Model Facility*. PEER analysis notes an increase in the operating costs for security personnel of approximately 30% (i.e., costs increased from \$20.66 for FY 2020 to \$26.77 for FY 2022).

In discussions with staff from MDOC and the contracted auditor, MDOC attributed this increase in cost to a new scheduling model utilizing 12-hour shifts (the previous model utilized 8-hour shifts) and the implementation of the state's new compensation system, SEC2.¹

PEER analysis showed that cost for non-security personnel declined by approximately 36% (i.e., per-inmate costs decreased from \$7.24 in FY 2020 to \$4.65 in FY 2022). MDOC reported that the facility expenditures utilized to provide historical costs for the FY 2022 report were based on expenditures for an increased inmate population. However, as highlighted on pages 10 and 11, non-security personnel costs may be unrelated to the number of inmates housed in a facility (i.e., additional inmates may not necessitate the hiring of additional office/clerical personnel). This means that similar year-to-year operating costs may have been allocated over a larger inmate pool, resulting in a lower cost per inmate calculation.

Negotiating Private Prison Payments

MDOC should negotiate private prison contracts to yield savings significantly greater than the 10% required by law.

State law requires that private prisons represent *at least a 10% savings to MDOC's costs for the same level and quality of services*. It should be noted that cost savings offered by private prisons may exceed the 10% threshold. Therefore, when negotiating private prison contract per diems, items borne solely by the state should be eliminated and due consideration given to reducing other costs in which the state bears additional or different costs than the costs incurred by private prisons.

¹ SEC2 is Mississippi's new compensation system that went into effect January 1, 2022. SEC2 was developed by the Mississippi State Personnel Board to create a classification system that is fair and equitable and allows for recruitment, retention, and motivation of a qualified workforce.

CONCLUSION: As required by MISS. CODE ANN. Section 41-29-139.1 (1972), otherwise known as Parker's Law, the PEER Committee prepared an overview of Parker's Law and similar provisions of law in the United States, and the number of convictions that have occurred under Parker's Law since its adoption. To date, the Administrative Office of the Courts (AOC) has not recorded a conviction under Parker's Law. AOC and PEER emphasize that the provisions have only been in effect since July 1, 2022.



BACKGROUND

Mississippi CODE

In 2022, the Mississippi Legislature adopted Chapter 401, Laws of 2022, otherwise known as Parker's Law. This provision of law was codified as MISS. CODE ANN. Section 41-29-139.1 (1972).

The Fentanyl Problem

Parker's Law was adopted as a response to the growing problem of Fentanyl use and addiction.

Pharmaceutical fentanyl is a synthetic opioid, approved for treating severe pain, typically advanced cancer pain. It is 50 to 100 times more potent than morphine.

Most recent cases of fentanyl-related harm, overdose, and death in the U.S. are linked to illegally made fentanyl. It is sold through illegal drug markets for its heroin-like effect. It is often mixed with heroin and/or cocaine as a combination product—with or without the user's knowledge—to increase its euphoric effects.

According to the U.S. Department of Health and Human Services, overdose deaths resulting from synthetic opioids such as Fentanyl have increased 97-fold from since 1999.



KEY FINDING

To date, the AOC has not recorded a conviction under Parker's Law.

PEER staff contacted the Administrative Office of the Courts (AOC) to determine how many convictions have occurred under Parker's Law since its adoption. The staff of AOC reviewed court records in their possession, including filings maintained in Mississippi Electronic Courts (MEC).

AOC and PEER emphasize that the provisions have only been in effect since July 1, 2022.

Criminal Penalties for Drug-induced Homicides

The use of criminal statutes to punish those who distribute controlled substances to persons who die from the use of such substances is not new in this country.

A 2017 report shows that 20 states and the federal government have adopted statutes that make it a felony to distribute a controlled substance to a person who ultimately dies from the use of that substance.

Since that date, at least one state, Tennessee, has adopted a criminal provision that is similar to Mississippi's.

Rates of overdose deaths involving synthetic opioids other than methadone, which includes fentanyl and fentanyl analogs, increased by more than 56% from 2019 to 2020.

CONCLUSION: Under the authority of MISS. CODE ANN. § 57-1-64 (1972), the Mississippi Development Authority (MDA) oversees deposits to and expenditures from the Tourism Advertising Fund. Additionally, MISS. CODE ANN. § 27-65-23 (b) (1972) requires a certain percentage of monthly restaurant and hotel sales tax collections be deposited into the fund. As required by state law, PEER conducted a review to detail how funds were spent and deposited in FY 2022.



BACKGROUND

Background

MISS. CODE ANN. § 27-65-75 (23) (b) (1972) requires the Joint Legislative PEER Committee to provide an annual report to the Legislature reviewing the Mississippi Development Authority (MDA) Tourism Advertising Fund established by MISS. CODE ANN. § 57-1-64 (1972).

MISS. CODE ANN. § 57-1-64 created a special fund in the State Treasury known as the MDA Tourism Advertising Fund (Tourism Advertising Fund).

MDA is authorized to sell advertising and other promotional information and enter into agreements with other tourism associations for the purpose of facilitating revenue to deposit into the Tourism Advertising Fund. Additionally, MISS. CODE ANN. § 27-65-75 (23) (a) requires a certain percentage of each month's sales tax collections from restaurants and hotels to be deposited into the Tourism Advertising Fund.

MISS. CODE ANN. § 27-65-75 (23) (a) requires a certain percentage of each month's sales tax collections from restaurants and hotels to be deposited into the Tourism Advertising Fund.



KEY FINDINGS

- **As provided by MISS. CODE ANN. § 27-65-75 (23) (a), the Tourism Advertising Fund received approximately \$12.9 million in restaurant and hotel sales tax revenue in FY 2022.**
MISS. CODE ANN. § 27-65-75 (23) (a) mandates a 1% increase in the amount of sales tax collections deposited into the fund from FYs 2020 through 2022. Due to the annual percentage increase that took place in August 2021, FY 2022 deposits increased from \$7.3 million in FY 2021 to \$12.9 million in FY 2022 (a \$5.7 million increase).
- **In FY 2022, MDA expended approximately \$16 million from the Tourism Advertising Fund, primarily on advertisements promoting tourism in Mississippi.**
FY 2022 expenditures exceeded FY 2021 expenditures by \$13.5 million.
- **MDA establishes spending levels based on the revenue collected and deposited into the Tourism Advertising Fund in the previous quarter.**
Proceeding into FY 2023 and future fiscal years, MDA's goal is to operate the fund at a near net-zero balance. MDA staff anticipates spending an average of \$1 million to \$1.2 million monthly from the Tourism Advertising Fund beginning January 2023.



RECOMMENDATION

MDA should continue planning expenditures around activities that show effectiveness in both output (e.g., search engine hits or press coverage) as well as outcomes (e.g., increased tourism or increased restaurant and hotel sales tax revenue collections). MDA should create clearly defined goals for expenditures of the Tourism Advertising Fund and ensure all planned expenditures will further MDA's plan to meet the defined goals.

CONCLUSION: During FYs 2021 and 2022, the Mississippi Department of Education (MDE) disbursed \$4.8 million (85%) of ESA funds available, while \$859,892 (15%) lapsed and was returned to the State Treasury. The current ESA budget of \$3 million per year could be better used to address students on the program's waitlist. For FYs 2021 and 2022, the ESA program cost the state approximately \$1 million per year. MDE has made some improvements in its administration of the program but certain areas continue to be problematic (e.g., failure to recertify participants after three years of program enrollment and the delayed development of an online portal for parents to submit documents). S.B. 2594 (2020 Regular Session) made changes to student and school eligibility. The bill also attempted to increase program accountability by establishing various reporting requirements; however, these efforts have not increased accountability for all participating schools and students. PEER's survey indicated high levels of satisfaction with the program by both parents and students.



BACKGROUND

In 2015, the Mississippi Legislature enacted The Equal Opportunity for Students with Special Needs Act (Chapter 441, *Laws of 2015*). MISS. CODE ANN. Section 37-181-1 (1972) et seq., directs MDE to administer the ESA program.

The program's purpose is to offer parents of children with disabilities financial assistance to place their children in a nonpublic school setting and receive other educational services that parents believe best meet the needs of their child.

This biennial report is the third conducted by PEER and includes a review of the last two years of program operation, FYs 2021 and 2022.

Terms:

- **ESA recipient:** students who were awarded an ESA, regardless of whether they actually participated in the program by receiving ESA funds;
- **ESA participant:** students who were awarded an ESA and received ESA funds; and,
- **Nonpublic schools:** private, parochial, and independent schools.



KEY FINDINGS

- **For FYs 2021 and 2022, the budget for the ESA program was \$6 million (\$3 million in FY 2021 and \$3 million in FY 2022).**

Of the \$6 million budget, MDE disbursed \$4.8 million to parents and educational service providers and expended \$276,205 for program administration. Unused program funds in the amount of \$859,892 lapsed and were returned to the State Treasury, along with \$83,795 in unused administrative funds. The excess of funds indicates sufficient program funding.

- **As of October 2022, 127 students were on the ESA waitlist; therefore, some might argue that program funding is not sufficient. However, PEER contends that the current ESA budget of \$3 million per year could be better used to address students on the waitlist.**

This effort would require changes to state law and MDE's administration of the program, including projections of program participation and use of funds, as well as MDE's strict adherence to the three-year recertification requirement for ESA participants.

- **During FYs 2021 and 2022, 546 ESA participants attended 120 nonpublic schools in Mississippi.**

While some of the schools are designed to serve students with disabilities, the majority are not.

- **During FYs 2021 and 2022, participants used an average of 96% of their ESA funds on tuition expenses.**

Tutoring accounted for another 2% of funds, while various expense categories accounted for the remaining expenditures.

- **For FYs 2021 and 2022, the state's net cost for the ESA program was \$966,589 and \$1,100,923, respectively.**

The fiscal impact to public school districts was immaterial.

Effectiveness of ESA Administration

In PEER's 2020 report, PEER noted that MDE had made several improvements to the ESA program since its previous review.

For example, MDE has adopted and adhered to certain formal policies in more recent years regarding its ESA awards and forfeitures. Additionally, in February 2021, the State Board of Education revised its policies for the ESA program.

However, MDE has not improved in certain aspects of program administration since 2020, including issues regarding recertification of ESA participants after three years of program participation and internal controls over reimbursements (i.e., overpayments to parents and educational service providers, system data entry errors, refund classification errors).

Also, MDE has not completed its online portal for applications and reimbursements that it expected to be available to parents

Impact of S.B. 2594 (2020 Regular Session)

Student and School Eligibility: S.B. 2594 slightly reduced the number of students eligible to participate in the ESA program. Regarding school eligibility, the bill potentially increased the number of in-state nonpublic schools eligible to participate but made online and out-of-state schools ineligible.

Program Administration: S.B. 2594 made several changes to program administration, including changes related to eligible expenses, the program's waitlist, and the transfer of unused ESA funds to home school districts if a student returns to public school.

Accountability: S.B. 2594 attempted to increase program accountability by establishing assessment and reporting requirements for eligible schools, requiring PEER to analyze participating students' performance on pre- and post-assessments, and requiring PEER to assess the degree to which eligible schools are meeting the needs of participating students as defined in their individual education plans. However, these efforts have not increased accountability for all participating schools and students.

Parent and Student Satisfaction

2022 survey respondents indicated that parents and their children were satisfied with the ESA program and with the disability services provided by nonpublic schools. They also believed that their children had shown progress in achieving their academic and disability-related goals through participation in the ESA program. However, parents reported areas needing improvement, including the timeline for reimbursements and electronic submission of documents.



SUMMARY OF RECOMMENDATIONS

1. The Legislature should amend MISS. CODE ANN. Section 37-181-7 (1972) to allow for the Mississippi Department of Education (MDE) to fund each student's ESA up to the maximum ESA amount for each school year.
2. MDE should continue to improve its administration of the ESA program.
3. In order to improve program accountability, MDE should require that all participating schools submit MDE's school assurances form attesting that they meet statutory obligations and will comply with program requirements (e.g., provide a pre- and post- test to students and submit results to MDE). For current ESA participants, forms should be signed before MDE reimburses any additional expenses to parents or schools. For future participants, forms should be signed before ESA awards are finalized.
4. In order to improve the ESA program's accountability structure, by January 1, 2024, MDE, in consultation with PEER staff, should provide the following information and recommendations to the Senate and House Education committees regarding the ESA statute:
 - a. whether the types of pre- and post-tests included in statute should be limited to specific tests;
 - b. what type of performance information should be submitted by schools at the end of the school year related to the special needs of the student; and,
 - c. what information schools should submit regarding ESA students' performance on Advance Placement exams or exams related to college or university admission, four-year high school graduation rates, and college acceptance rates.

CONCLUSION: This issue brief addresses the question: Would increasing centralization in procurement offer increased efficiency to Mississippi state government? Specifically, this issue brief addresses the following matters: centralized purchasing, centralized purchasing in other states, evolution of purchasing management and oversight in Mississippi, opportunities for increased efficiency through increased centralization of purchasing, and actions the Legislature could take to enable the state to take advantages of more centralization in procurement.



BACKGROUND

Definition of Centralized Purchasing

Centralized purchasing or centralized procurement is a system where a single team or a department handles all the purchasing or procurement for the organization.

History of Centralized Purchasing

In an article regarding governmental purchasing published in 1924, the authors noted that discussions of centralized purchasing have dated back to the founding of United States. Treasury Secretary Alexander Hamilton advocated for a centralized purchasing regimen for military supplies in 1792.

According to the article, by the early twentieth century, advocates for centralized purchasing argued that just as centralized management benefitted growing government programs, centralized purchasing could also benefit the same programs by providing resources more efficiently than decentralized systems.

At the time the article was written, 36 states of the union and several municipalities and Canadian provinces had adopted centralized procurement for commodity items.



KEY FINDINGS

- **According to the Chief Procurement Officer of Maine, central purchasing encourages responsibility with state funds and inspires public confidence in state purchasing efforts.**
Central purchasing creates savings by eliminating inconsistent practices and duplicative purchases. It also supports public confidence in state purchasing efforts.
- **All states have a central procurement office, but authority of each office varies based on its enabling legislation. In most states, judicial and legislative branches as well as university systems are exempt from the oversight of the central procurement office.**
According to the National Association of State Procurement Officials, 34 jurisdictions have statutory or regulatory authority to delegate portions of their authority to other state agencies.
- **Mississippi has evolved from a highly decentralized state with limited restrictions on procurements to one with a central authority empowered to adopt procurement rules and policies that agencies must follow to procure commodities.**
Currently, DFA oversees agency procurement of commodities by establishing rules and regulations. DFA also establishes contracts for certain agencies procuring commodities.
- **Increased centralization in personal services contract procurement could result in more efficient control over the procurement process thereby saving agency funds and eliminating delays in contract approval.**

Recommendations

The Legislature should amend MISS. CODE ANN. Section 27-104-7 (1972) to provide that PPRB shall require that the staff of DFA shall do all things necessary to conduct personal services contracting solicitations in excess of \$75,000.00 for select agencies with assistance from those agencies. Additionally, the Appropriations Committees should consider DFA's requests for any additional resources necessary to carry out these functions.

Additionally, the Legislature should ensure that all vendors with an office in the state of Mississippi may compete for personal services and other contracts without regard to the office's location in the state.

CONCLUSION: From FY 2017 to FY 2021, the PHWD's net financial position increased by \$1,503,988. PHWD's net financial position was aided by \$1,475,000 in one-time exit payments from Forrest County and Jasper County. Although the PHWD Board of Directors informally identifies project priorities based on Board member input (e.g., effort to resurface park roads), the Board has not developed a five-year plan documenting the Board's priority projects (and their projected costs), as required by MISS. CODE ANN. Section 51-15-119 (2) (1972). The PHWD budget available for capital outlay projects is limited, in part because the parks operate at a loss, averaging a deficit of \$233,964 per year from FY 2018 to FY 2022. PHWD has not taken formal steps to outline a plan for use of its reserve fund, which has been elevated by the influx of one-time funds (e.g., exit fees, timber sales).



BACKGROUND

Background

MISS. CODE ANN. Section 51-15-101 (1972) et seq., created PHWD in 1962 to oversee recreation, flood control, economic development, timber development, irrigation, and pollution abatement. Originally composed of 15 counties in southeast Mississippi state, PHWD currently has ten member counties. MISS. CODE ANN. Section 51-15-129 (1972) requires the use of a specified portion of the funds contributed to PHWD by member counties for flood control and water management.

PHWD owns eight parks and nine boat ramps. Little Black Creek Water park is operated by a private vendor. The PHWD also operates Okatibbee Creek Water Park, which it leases from the U.S. Army Corps of Engineers. PHWD also maintains seven dams.

The 13-member PHWD Board of Directors must authorize all PHWD expenditures of \$5,000 or more, including the approval of capital outlay projects or significant maintenance projects.

PHWD funding sources include park revenue, member county ad valorem tax collections, and miscellaneous revenue (e.g., interest income, timber sales, exit fees).



PHWD Financial Status

- **From FY 2017 to FY 2021, the PHWD's net financial position increased by \$1,503,988.** PHWD's net financial position was aided by \$1,475,000 in one-time exit payments from Forrest County and Jasper County. Exit fees for Perry and Jackson counties are still to be determined.
- **As of June 30, 2022, PHWD had \$11,155,002 in cash reserves, of which approximately \$9.1 million were unrestricted cash reserves.** Although best practices suggest there are benefits to having a reserve fund (e.g., maintaining a loss reserve or a sink fund to cover large, unplanned projects), especially for a park system, PHWD has not followed best practices because it has not outlined PHWD's intent for these funds or established a policy regarding PHWD's use of reserve funds.
- **Over a five-year period, FY 2018 to FY 2022, PHWD parks averaged an annual net loss of \$233,964 per year, including parks-related expenses associated with PHWD office and central maintenance crew.** PHWD parks generate 79% of their revenue from cabin and campsite rentals. Staffing costs comprised about half of park expenses while utility costs comprised about one-fifth of park expenses.
- **PHWD ad valorem tax collections rose approximately \$343,000 from FY 2019 to FY 2022 (excluding exit fees).** This followed a 34% decline in PHWD ad valorem tax revenue collections from \$2.78 million in FY 2011 to \$1.83M in FY 2019 as five member counties exited PHWD.

Assessment of PHWD Efforts to Plan for Capital Outlay Projects

- Although the PHWD Board of Directors informally identifies project priorities based on Board member input (e.g., effort to resurface park roads), PEER found that the PHWD Board of Directors has not complied with MISS. CODE ANN. Section 51-15-119 (2) (1972) requiring the Board to annually prepare a five-year plan containing a prioritized list detailing the purposes, goals, and projected costs of projects which it intends to implement or is in the process of implementing. PHWD staff develops and updates a capital infrastructure plan that generally lists and assigns a dollar estimate value for each capital outlay project (\$22,642,400 in total projects); however, the plan lacks specificity regarding the work to be done and prioritization of needs.

Determining PHWD Capital Outlay/Priority Needs

- Both PHWD Board members and staff identified issues related to park infrastructure (e.g., repairing/replacing water lines and updating electrical infrastructure) and revenue-generating areas (e.g., modernizing to accommodate RVs, cabin maintenance, and RV-traveled park roads).
- Absent a ranked priority system, DFA BOB identified repair and renovation of existing buildings (or infrastructure) as its top priority, in part due to costs related to deferred maintenance, and increased costs associated with adding additional infrastructure.

The Mississippi Department of Environmental Quality currently requires the PHWD to make repairs or improvements to three high-hazard dams.

PHWD Expenditures for Capital Outlay Projects and Maintenance

- PHWD does not track total costs for capital outlay projects and/or maintenance expenditures. For projects in which project-specific costs are known, PHWD expended \$1,097,975 from FY 2015 to FY 2021 for road resurfacing, building new cabins, or specific projects funded by federal or state matching funds (e.g., development of Flint Creek Horse Trail or improvements to Little Black Creek Dam). For example, this excludes costs related to adding 42 additional campsites to five PHWD parks.



SUMMARY OF RECOMMENDATIONS

1. The Legislature should amend MISS. CODE ANN. Section 51-15-118 (1972) to require member counties who choose to exit the PHWD to do so with an effective date of the fiscal year-end, June 30.
2. PHWD Board of Directors should comply with MISS. CODE ANN. Section 51-15-119 (2) (1972) to *annually prepare a five-year plan containing a prioritized list detailing the purposes, goals and projected costs of projects which it intends to implement or is in the process of implementing and shall file such plans with the clerk of the board of supervisors of each member county on or before July 15 of each year.*
 - a. Further, the Legislature should amend MISS. CODE ANN. Section 51-15-119 (2) (1972) to require PHWD also submit the plan to the House and Senate Appropriations committees on or before July 15 of each year.
3. PHWD Board of Directors should establish a board policy specifying for what purposes the PHWD cash reserve fund may be utilized, and requirements for authorizing the use of such funds. PHWD Board of Directors, in consult with PHWD staff, shall adopt a document outlining the reasoning for its policy and plans for the use of PHWD's reserve fund.
 - a. For example, this may include a policy stating the expenditure of cash reserve funds requires a two-thirds board vote. A cash reserve fund utilization policy may state that PHWD allocates \$1,000,000 toward operating cash flow; \$3,000,000 for emergency maintenance funds; and \$3,000,000 to sustain PHWD operations in the event of revenue shortfalls.

KEY FINDINGS: As of June 30, 2022, all three of the plan's funding policy metrics reached red signal-light status. Based on these results and the negative investment experience of the plan for FY 2022, the PERS Board voted to adopt the recommendation of its actuary to increase the employer contribution rate from 17.40% to 22.40%, an increase of 5.00%. Additionally, during its June 2022 meeting, the PERS Board, on the recommendation of Callan LLC, adopted changes to the overall asset allocation model utilized by the System to include private credit and private infrastructure.



BACKGROUND

Background

The Public Employee's Retirement System of Mississippi (PERS) is a defined benefit retirement plan for a majority of employees (and/or their beneficiaries) of state agencies, counties, cities, colleges and universities, public school districts, and other participating political subdivisions. State law requires PEER to report annually to the Legislature on the financial soundness of PERS.

The PERS system is under the administration of the 10-member PERS Board of Trustees, which has a primary responsibility of ensuring adequate funding of the plans it administers. One way the Board accomplishes this task is by setting contribution rates for employers participating in the plan. For assistance in setting these rates, the PERS Board receives actuarial reports annually and works with independent actuarial advisers to develop comprehensive models that are used to project the financial position of the various plans. These models include components such as investment return assumptions, wage inflation assumptions, retirement tables, and retiree mortality tables.

Each of these components must work in concert with the others for the PERS plan to maintain financial soundness. Underperformance in any one area can cause additional stress on other components and can lead to underperformance of the PERS plan as a whole.

This report includes information regarding the financial soundness of the PERS plan, as well as information regarding prospective changes in the PERS plan's asset allocation model, including the addition of private credit and private infrastructure investments.

ACTUARIAL SOUNDNESS

The PERS Board, in consultation with its actuaries, develops an actuarial model based on assumptions such as projected investment returns, payroll increases, inflation, retirement ages, mortality rates, marriage rates, and accrued leave to project the plan's future assets and liabilities. Although the PERS Board sets plan assumptions based on biennial experience studies, the plan's actual experience (e.g., investment returns or mortality rates) is a product of environmental and demographic factors.

- **Over the last 5- and 10-year periods, the PERS actual average annual payroll increase has remained below the actuarial model's projected rate.**

The projected annual rate of wage increase is 2.65%. While actual wage increases for FY 2022 were above the projected annual rate of wage increase of 2.65%, for the past five fiscal years, the actual average annual payroll increase was 1.36%, and during the past 10 fiscal years the actual average annual payroll increase was 0.98%.

- **The ratio of active to retiree members in the PERS plan decreased from 1.81:1 in FY 2012 to 1.24:1 in FY 2022, or approximately 31.49%.**

The declining ratio is attributable to a decrease in the number of active members and an increase in the number of retiree members.

- **The PERS Board's assumption target is 7.00%. Due to the Board's funding policy, the current investment assumption rate will be reduced over time from its current rate, 7.55%, until it reaches the target rate of 7.00%.**

PERS Board, at its August 2021 meeting, set the plan's current investment return assumption target at 7.00%. However, due to the plan's funding policy, the PERS plan has only experienced excess returns sufficient to reduce the plan's utilized investment return assumption rate from 7.75% to 7.55%. While PERS's actuary did provide the methodology for assumption changes utilized by the Board in the PERS funding policy, the PERS Board's choice to utilize this methodology could continue to be a cause of concern. Selection of this methodology has delayed implementation of the assumption reduction and exacerbated the plan's lower-than-projected investment returns.

SUSTAINABILITY

Funding Ratio

For FY 2022, the actuarial value of assets in PERS remained flat in relation to the actuarial value of its liabilities—61.3% for both FY 2021 and FY 2022.

According to projections prepared by PERS's consulting actuary as of June 30, 2022, the plan's funding ratio was projected to be 48.6% by 2047, as compared to 93.5% reported in the FY 2021 projection reports. The decrease in the future funding level is primarily due to less-than-expected investment gains.

Investment Return

For FY 2022, the PERS system had an investment return of -8.54%, which is below the assumed investment rate of return. Because the system did not exceed the expected return, the PERS plan did not make progress in lowering its investment return assumption to the actuarial recommendation in FY 2022. As no progress was made toward the target rate assumption, it is critical that the PERS Board and its actuary continue to monitor this assumption and the experience of the plan. The PERS plan's actuary will evaluate the plan's investment return assumption in the plan's next experience study.

The PERS plan's funding policy defines several goals and objectives, including the maintenance of an increasing trend in the plan's funded ratio (over the projection period) with the target of a 100% funding level by 2047.

- **Based on the results of the evaluation metrics in the funding policy as of June 30, 2022, all three of the plan's metrics are at red signal-light status.** One of the plan's funding policy metrics analyzes the plan's projected funded ratio as of FY 2047. For the fiscal year ended June 30, 2022, the plan's projected funding level was 48.6%, decreased from 93.5% for the year ended June 30, 2021.

| Metric | Result | Status |
|-------------------------------------|--------|--------|
| Funded Ratio (in FY 2047) | 48.6% | Red |
| Cash Flow as a Percentage of Assets | -7.8% | Red |
| ADC/FCR Ratio | 124.8% | Red |

- **In its December 2022 meeting, the Board voted to increase the employer contribution from 17.40% to 22.40%. The prospective date for implementation of this change is July 1, 2024.**

Based on these results, and the negative investment experience of the plan for FY 2022, the plan's actuary recommended increasing the plan's employer contribution rate. In light of concern expressed by multiple employer groups, the PERS Board voted in its February 2022 meeting to amend the effective date of the prospective rate change to July 1, 2024.

- **As of June 30, 2022, PERS's anticipated accrued liability payment period was 48.8 years, a decrease from 50.9 years as of June 30, 2021.**

The PERS Board's actuary attributes the decrease primarily to higher-than-expected wage growth experienced by the plan during FY 2022. Higher-than-expected mortality experience also contributed to the reduction in the payment period.

Prospective Changes in Asset Allocation Model for the PERS Plan

- During its June 2022 meeting, the PERS Board, on the recommendation of their investment consultant Callan LLC, adopted changes to the overall asset allocation model utilized by the System to include private credit and private infrastructure.
 - *Private Credit:* Private credit investments are an asset class of privately negotiated loans and debt financing from non-bank lenders (e.g., direct lending, real asset lending).
 - *Private Infrastructure:* Private infrastructure investments are long-lived assets that are essential for the economic productivity of society and facilitate the movement of people, goods, and ideas (e.g., investment in debt related to these types of projects, purchase and operation of existing assets).
- When asked why the PERS Board adopted changes to the plan's asset allocation model, the PERS Board responded:

The driving reason for the addition of the new asset classes is that they are expected to provide further diversification to a portfolio heavily weighted in public equities. The benefits that both private credit and infrastructure can provide to the PERS portfolio are (but are not limited to) cash flow generation, expected return premiums, higher downside protection, and volatility dampening.

CONCLUSION: UMMC staff stated that the purpose of the TEAM Clinic is not only to provide an inclusive, welcoming environment to patients, but to train and educate current and future healthcare providers on how to better serve the LGBTQ community. Therefore, due to the importance of the training component as a best practice for providing care to this population and the limited hours of operations of the Clinic, UMMC could consider integrating services provided by the TEAM Clinic back into UMMC's regular care setting, similar to the way it did with services provided to minors, and offer optional LGBTQ training courses to all staff and students. As of June 30, 2023, UMMC closed the TEAM Clinic.



Background

The purpose of this issue brief is to provide policymakers with an overview of the operations of, services provided by, and the funding for the University of Mississippi Medical Center's (UMMC) TEAM Clinic. UMMC opened the TEAM Clinic in September 2019 to provide holistic and patient-centered health care (e.g., gender-affirmative medicine, primary care) to the LGBTQ population. In addition, an important aspect of the Clinic is to provide training and educate the next generation of providers on delivering a safe and affirming environment for all patients. Prior to providing services in the Clinic, all staff are required to complete training modules on LGBTQ care.

The TEAM Clinic is opened for half a day, in the afternoon (1:30 p.m. to 4:30 p.m.), on the first Friday of each month for patients with an appointment. Services provided include but are not limited to primary care; gender-affirmative medicine, including gender transition services; HIV/STD screening and treatment; and behavioral health services.

TEAM is an acronym for Trustworthy, Evidence-based, Affirming, and Multidisciplinary.

LGBTQ stands for lesbian, gay, bisexual, transgender, and queer.



KEY FINDINGS

- **How much did UMMC spend to operate the TEAM Clinic?**

From FY 2020 to FY 2023, TEAM Clinic expenditures totaled \$96,781, which is approximately \$25,000 each fiscal year. Each year, the TEAM Clinic's support staff costs account for approximately 59% of total expenditures for the TEAM Clinic.

- **How is the TEAM Clinic funded?**

TEAM Clinic expenditures are funded by patient revenues generated by UMMC (i.e., insurance, Medicaid, self-pay) and grant funding. While UMMC does receive state appropriations each fiscal year, UMMC staff stated that all state appropriation dollars are used to fund education at the hospital and are not used to fund the TEAM Clinic. The only state funding the TEAM Clinic could receive directly is through Medicaid payments.

- **How many patients have been served by the TEAM Clinic?**

From FY 2020 to FY 2023 the TEAM Clinic served 298 patients. During this time period, 78% of patients served by the Clinic were 18 years of age or older. PEER notes, as of October 7, 2022, the TEAM Clinic stopped providing services to minors. Those services were integrated back into UMMC's regular care setting.

- **How much did UMMC bill payors for services provided through the TEAM Clinic?**

For the four fiscal years reviewed, UMMC billed payors (e.g., insurance, Medicaid, patient) a total amount of \$138,790 for services rendered by providers in the TEAM Clinic. The majority (66%) of the services provided by the TEAM Clinic were billed to Blue Cross Blue Shield (40%) and other commercial insurance providers (26%). The next largest amount was billed to Medicaid (17%).

- **How much of the services provided by the TEAM Clinic were for gender transition services?**

According to UMMC data, 221 patients received gender transition services through the Clinic, 24% of those patients were considered minors at the time of treatment.

The REAP Act, passed during the Mississippi Legislature's 2023 Regular Session, prohibits healthcare professionals in the state from administering gender transition procedures to minors (i.e., persons under the age of 18).

CONCLUSION: PEER reviewed MDOC's oversight of electronic monitoring by measuring its level of responsiveness to notifications provided by Sentinel for key alert categories grouped into three cohorts: no GPS signal, unapproved entry/leave, and electronic monitoring device tampering. Based on a sample of documentation in the MDOC Caseload Explorer database, an overall positive response rate (i.e., successfully acknowledging the notification) could only be documented in 25% of the key alert notification instances. Based on PEER's review of all key alert notifications (41,467) by cohort, an overall positive response rate could only be documented in 15% of instances. MDOC officers may be responding to a higher number of key alert notifications but either are not documenting these responses at all or are not consistently documenting responses within the two databases.



BACKGROUND

Background

The PEER Committee, under its authority found in MISS. CODE ANN. Section 5-3-51 (1972) et seq., conducted a review of the Mississippi Department of Corrections (MDOC) to evaluate its responsiveness to the state's electronic monitoring programs (i.e., programs that allow for MDOC to monitor offenders that are not incarcerated within a correctional facility).

This review was prompted by a legislator's request regarding an incident in 2022 where an offender participating in the Intensive Supervision Program (ISP)—also known as house arrest—was involved in the death of a cashier at a convenience store while wearing an electronic monitoring device.

This report addresses the MDOC Community Corrections Division's management and monitoring of offenders required to wear an electronic monitoring device as a condition of their release.

Electronic monitoring is a method of offender observation by which information regarding an offender is transmitted electronically from one source to another while that offender is under state custody but lives and works in approved locations as an alternative to incarceration.



KEY FINDINGS

- **MDOC's Community Corrections Division, the division with sole responsibility for the operation and management of electronic monitoring, has maintained an average caseload of 36,009 offenders over the last 6 years.**

Not all offenders under the supervision of the MDOC Community Corrections Division are under electronic monitoring. Of these total offenders, an average of 1,618 (4.5%) are required to wear an electronic monitoring device.

- **ISP is used as an alternative to incarceration in a MDOC facility with the goals of reducing recidivism, reducing prison costs by reducing the prison population, and improving offender outcomes.**

Since the passage of House Bill 585 in 2014, the assignment of ISP to an offender has been the exclusive power of the courts within the state. Prior to July 1, 2014, this authority was shared with MDOC.

- **According to MDOC records, an average of 956 offenders are admitted into ISP each year.**

An average of 856 offenders exited the ISP program either through successful completion and return to society or through unsuccessful completion by violation of the required participant conditions and return to an MDOC facility. On average, 83.6% of ISP participants successfully completed ISP over the five-year period.

- **PEER reviewed key alert notification data based on 11 Sentinel key alert categories grouped into three cohorts: no GPS signal, unapproved entry/leave, and electronic monitoring device tampering.**

The No GPS signal cohort resulted in the highest successful response rate at 56% when looking at all Sentinel key alert notifications across all electronic monitoring programs. The Device Tampering cohort had a similar successful response rate of 53%. In contrast, the Unapproved Entry/Leave cohort resulted in a 0% successful response rate.

- **The average time for a key alert notification to be responded to and documented as closed was 55.96 minutes.**

The established key alert notification response standard for the MDOC supervising officer is to acknowledge the Sentinel key alert notification within 20 minutes. The actual response time is almost three times longer than the expected response time.

Electronic Monitoring Issues in Other States

PEER examined national concerns and concerns in operating electronic monitoring in Mississippi's contiguous states. Throughout all research examined, the issue of inconsistent examination of GPS monitor alerts appears as a national issue.

According to a 2017 article from the Brookings Institute on the effectiveness and issues of GPS monitoring offenders, multiple states, including Tennessee, Colorado, and New York, have noted issues resulting from officers missing or ignoring alerts.

MDOC staff stated that low successful response rates to key alert notifications could be, at least partially, attributed to low or inadequate staffing levels, the need for increased training of new hires and veteran MDOC officers, and a lack of equipment necessary to carry out the duties of the MDOC officer position.

According to staff at the Louisiana Department of Corrections Residential Services, inadequate staffing is also the main impediment to its electronic monitoring program. In order to decrease officer caseloads, the state is no longer a 24-hour, 7 days a week supervision system. Any alarms that occur outside of an officer's typical work schedule are not examined until the next work day.

According to staff at the Arkansas Department of Corrections Residential Services, it has attempted to address its program's lack of staffing and lack of proper training of probation and parole officers by implementing retraining programs and cross-training employees based on performance.

ISP Incident

On September 11, 2022, an offender who was placed on ISP by a circuit court judge was involved in the death of a cashier at a convenience store while wearing an electronic monitoring device.

The offender had prior felony convictions for burglary and larceny of a dwelling in 2018 and was placed on five years of post-release supervision. When the offender violated his post-release supervision, a circuit court judge sentenced him to serve two years in ISP (i.e., house arrest) rather than being incarcerated.

MDOC's Role in ISP

A court shall give notice to MDOC within 15 days of the court's decision to place the offender in ISP. MDOC will place an electronic monitoring transmitter on an offender and install a home monitoring unit within 24 hours of receiving a sentencing order or parole certificate. As long as the offender remains compliant, he or she will continue to be monitored by MDOC staff and progress through the ISP duration for the length of the placement sentence. Should an offender violate the terms of his or her electronic monitoring program, MDOC has the authority to take corrective actions against that offender. MDOC Community Corrections Division's graduated sanctions and incentives procedures govern what actions will be taken by MDOC based on the level of the offense. ISP participants that are determined by MDOC to violate program conditions to a degree requiring removal from the program will be returned to incarceration.

SUMMARY OF RECOMMENDATIONS

MDOC:

1. should review the current 57 key alert categories established in the Sentinel database that MDOC elects to be notified regarding when one occurs. This could potentially reduce the large number of total alert notifications sent by Sentinel to MDOC officers, and it could allow MDOC to prioritize certain key alerts or key alert types.
2. should coordinate with Sentinel to conduct a full census of MDOC officers and officer response rates to key alerts generated for a selected time period.
3. should examine MDOC officer caseloads and implement a strategy to align current caseloads with national standards.
4. should increase and implement routine training for new and veteran MDOC officers on electronic monitoring administrative protocols.
5. should not automatically renew its contract with Sentinel unless it receives additional technical assistance regarding administrative and oversight reporting capabilities.

The Legislature:

1. could consider one or more of the following options:
 - a. amend current MISS. CODE ANN. sections regarding electronic monitoring to further limit which offense types are eligible for electronic monitoring programs;
 - b. amend current MISS. CODE ANN. sections regarding electronic monitoring to cap the total eligible number of offenders that may participate in an electronic monitoring program based on national caseload standards; and/or,
 - c. require that the PEER Committee conduct a follow-up review on the performance of MDOC oversight of electronic monitoring programs and produce a report to the Mississippi Legislature, including the Chairmen of the Corrections Committees in the Senate and the House, by December 31, 2024.

CONCLUSION: Since PEER's previous review of the Parole Board in 2021, the Board has improved in three areas of its operations—parole hearing timeliness, travel reimbursements, and Board members working as full-time employees. However, the Board has not made substantial improvements in two areas—use of presumptive parole and maintaining meeting minutes documenting parole decisions. Further, PEER determined that the Board has failed to update its policy and procedure manual since 2012, and the Board could improve its victim notification process.



BACKGROUND

Background

This report serves as an update on the information from PEER Report #656, *A Review of the Mississippi State Parole Board*.

MISS. CODE ANN. Section 47-7-5 (1972) creates the State Parole Board (Board), composed of five members. The Board has the exclusive authority to grant, deny, or revoke parole. The Board also has exclusive responsibility for investigating pardon cases upon the request of the Governor.

According to the Board's appropriation bill for FY 2023, the Board is authorized to hire up to eight full-time employees. The Board filled these positions with five Board members, one executive assistant, one attorney, and one administrative support team lead. MDOC has assigned twelve employees to the Board, seven of whom are located in offices at the Mississippi State Penitentiary (i.e., Parchman).

Parole continues to be the principal means by which offenders are released from prison. In 2022, 66.6% of offenders released from prison were released on parole. From January through March 2023, the average parole grant rate by the Board was 63%.



KEY FINDINGS

- The Board implemented changes to its hearing scheduling in September 2022, which significantly improved the timeliness of parole hearings.**

Based on findings related to untimely hearings of the previous PEER report, the Parole Board acted in August 2022 to change their hearing scheduling practices ensuring timeliness of hearings moving forward. For CY 2022, PEER determined that only 9.8% of hearings prior to the change were timely, while 70.5% of hearings were timely after the change.
- Since PEER's previous report, the Board has not improved its processes for presumptive parole or maintaining meeting minutes.**

The Board conducts unnecessary parole hearings for offenders who could qualify for presumptive parole as authorized by MISS. CODE ANN. Section 47-7-18 (1972). Additionally, the Parole Board has not improved in maintaining minutes documenting its parole decisions.
- Since PEER's previous report, the Parole Board has received travel reimbursements and per diem in accordance with state law and has improved attendance at hearings.**

In FY 2022, Board members did not receive travel reimbursements for commuting and were paid per diem in accordance with state law. Additionally, from February to April 2023, PEER staff observed current Board members in regular attendance at hearings and in compliance with leave policy when not in attendance.
- The Parole Board has not updated its policy and procedure manual since 2012.**

The manual is not consistent with the Board's practices in several areas (e.g., presumptive parole, various hearing procedures). However, the Board's staff attorney has been tasked with updating the manual.
- In a sample of 100 inmates, PEER found two instances in which an inmate with a registered victim had a parole hearing in CY 2022, but there is no record in Offendertrak (i.e., MDOC's inmate database) of the victim receiving notification of the hearing.**

According to MISS. CODE ANN. 99-43-43 (2) (1972), a victim of a crime should be notified when the offender is being considered for parole.

Issues with Implementation of Presumptive Parole

Presumptive parole is a part of the criminal justice reforms adopted by the Legislature in H.B. 585 (2014 Regular Session) which allows offenders to be released without undergoing the formal parole process or having a formal hearing if the following requirements are met, as defined by MISS. CODE ANN. Section 47-7-18 (1972).

In PEER's previous review, PEER found that the Board was conducting unnecessary hearings for individuals who were eligible for presumptive parole without a hearing. Since then, MDOC and the Parole Board have still not established an effective presumptive parole process that complies with state law.

In April 2023, despite not receiving the necessary documents required from MDOC, the Parole Board attempted to conduct presumptive parole hearings.

The Board restructured its hearings so that it considered offenders eligible for parole on one day and offenders eligible for presumptive parole the next day. However, the Board's docket was not organized accordingly. Of the 59 offenders placed on the docket for the day devoted to offenders eligible for parole, 54 offenders were eligible for presumptive parole.

As a result of these issues, the Board conducted full parole hearings for offenders who could qualify for presumptive parole if the process was conducted effectively.

Focus on Parole Cases for Non-violent offenders

One purpose of presumptive parole is to reduce the workload of the Board pertaining to nonviolent offenders so that it can focus more of its efforts on reviewing parole cases for violent offenders. The current Board focuses much of its efforts on non-violent offenders, making the vast majority of parole decisions based on file reviews. If the Board were implementing presumptive parole effectively, the Board might be able to focus more of its efforts on parole cases involving violent offenders.

Lack of Clear Parole Conditions in Offender Case Plans

Another goal of presumptive parole is to allow for an offender to know and clearly understand what he or she must do to be paroled without a hearing. Case plans are critical to ensuring that MDOC and the Board are in agreement regarding the conditions which would result in automatic parole without a hearing, and then communicating that to the offender.

Further, hearings should only occur when offenders fail to comply with the case plan or behavioral requirements, or if the victim has requested a parole hearing. Otherwise, inmates should be paroled at their parole eligibility dates. The Board has expressed some concern regarding the types of offenders eligible for presumptive parole and plans to work with legislators to change presumptive parole eligibility. If the Board and MDOC are unclear or do not agree with presumptive parole requirements, including those regarding offender eligibility, the process will continue to be ineffective.



SUMMARY OF RECOMMENDATIONS

1. MDOC and the Parole Board should take the following actions:
 - a. Determine which of the seven support staff positions located at Parchman should be relocated to the Board office in Jackson for staff support.
 - b. Determine which funded positions at MDOC are available for reallocation to position classes responsible for creating case plans for offenders upon admission and discharge plans required for presumptive parole.
2. Once necessary staff changes have been made, MDOC should:
 - a. ensure that case plans include specific and measurable goals that are appropriate for each offender, and that they are completed by a case manager within 90 days of the offender's intake;
 - b. provide the Board with case plans for approval within 30 days of creation;
 - c. notify the Board of an offender's compliance or non-compliance with the case plan at least 30 days before the offender's parole eligibility date; and,
 - d. ensure that case plans and discharge plans are available for review and use by the Board in an accessible electronic format (e.g., Offendertrak).

Further, the Board should:

 - e. approve case plans provided by MDOC in accordance with state law; and,
 - f. approve any offender in compliance with his or her case plan and who has an acceptable discharge plan.
3. The Board should complete a comprehensive review and update of its policy and procedure manual to comport with current laws and practices by November 2023.

CONCLUSION: While the Mississippi Department of Environmental Quality (MDEQ) has developed plans for coastal resiliency and restoration efforts under its jurisdiction, the state does not have an overarching coastal restoration and resiliency master plan that addresses how best to optimize all funding sources. The system could be better served by the development of a formalized, overarching plan identifying what the state is attempting to accomplish through its coastal resiliency and restoration efforts, and post-implementation monitoring and assessment of the effectiveness of projects.



BACKGROUND

Background

PEER conducted a review of Mississippi's coastal restoration and resiliency efforts. Mississippi utilizes a three-agency structure (Mississippi Department of Marine Resources [MDMR], Mississippi Development Authority [MDA], and Mississippi Department of Environmental Quality [MDEQ]) to identify and implement coastal resiliency and restoration projects funded by Gulf of Mexico Energy Security Act (GOMESA) and Deepwater Horizon oil spill settlement funds.

Mississippi was awarded nearly \$2.165 billion in compensation under the Deepwater Horizon settlement agreements.

The Deepwater Horizon settlement funding payments are scheduled to end in 2031 with implementation into the future. GOMESA funding will end in FY 2056, per the GOMESA Act.

GOMESA Disbursements to Mississippi and its Coastal Counties

Mississippi and its three coastal counties each directly receive a share of oil lease revenue. GOMESA Phase 2 expanded the territory covered by GOMESA to cover oil leases in the Gulf south of Mississippi, Louisiana, and Texas. MDMR administers state GOMESA funding. The Governor and the Legislature ultimately determine which projects to fund with the state's share of GOMESA funds. Each county is solely responsible for its GOMESA funding. **End Date - FY 2056 per GOMESA Act.**

| | Phase I | | | Phase II | | |
|----------|----------------|------------|------------|------------|------------|------------|
| | 2009-2017 (\$) | 2018 (\$) | 2019 (\$) | 2020 (\$) | 2021 (\$) | 2022 (\$) |
| MDMR | 8,136,827 | 22,203,639 | 25,379,085 | 41,531,181 | 29,216,818 | 29,417,448 |
| Hancock | 367,979 | 1,059,052 | 1,188,863 | 1,971,125 | 1,388,585 | 1,398,765 |
| Harrison | 792,558 | 2,157,883 | 2,470,050 | 4,035,776 | 2,840,169 | 2,898,940 |
| Jackson | 873,685 | 2,333,975 | 2,685,858 | 4,375,894 | 3,075,450 | 3,056,657 |

How are RESTORE Buckets 1 & 3 projects awarded?

RESTORE Buckets 1 & 3

Project ideas submitted through the MDEQ project portal are forwarded to the Governor's Gulf Coast Advisory Committee for review. Potential RESTORE Bucket 1 and Bucket 3 projects must go through three key steps prior to award:

- be recommended by the Committee to the Governor for funding;
- be chosen by the Governor for funding; and,
- be approved by the U.S. Treasury (Bucket 1) or RESTORE Council (Bucket 3).

RESTORE Bucket 5

Mississippi receives 0.5% of RESTORE funding plus 5% of the interest generated from the fund to establish a center of excellence: a nongovernmental entity dedicated to science, technology, and general monitoring in the Gulf Coast region.

How are Gulf Environmental Benefit Fund projects awarded?

MDEQ is invited to submit project proposals that are then considered for approval by the National Fish and Wildlife (NFWF) Board of Directors, in consultation with the state.

- Gulf Environmental Benefit Fund (GEBF) dollars may be used only to support projects that remedy harm and eliminate or reduce the risk of future harm to Gulf Coast natural resources where there has been injury to, destruction of, or loss of the use of those resources resulting from the oil spill.

NFWF has sole authority to make final project decisions.

- Through 2022, NFWF had awarded GEBF funding for 34 projects in Mississippi with a total current value of more than \$207 million.

How are Natural Resource Damage Assessment projects awarded?

Under Natural Resource Damage Assessment (NRDA), the Mississippi Trustee Implementation Group (TIG), which is comprised of MDEQ & four federal agencies, is responsible for restoration project identification, planning, and implementation in the Mississippi Restoration Area.

- The Mississippi TIG must solicit projects ideas from the public and publish for public comment.
- MDEQ identifies which projects to submit to the Mississippi TIG as its preferred restoration alternatives.
- To proceed with a project, all five members of the TIG must approve to disburse funding for the project.
- At least one member of the Mississippi TIG must serve as the implementing agency.

Mississippi will receive \$296M in NRDA funding, but funding is restricted by restoration type (e.g., \$27.5M must be spent on water quality projects and \$140.5M must be spent on efforts to restore and conserve habitat).

How are Gulf Coast Restoration Fund projects awarded?

- The Gulf Coast Restoration Fund (GCRF) was established by the Legislature in 2018 as the mechanism for allocating funding the state received as compensation for economic damages related to the Deepwater Horizon oil spill.
 - Mississippi received \$157 million through March 31, 2023, and is expected to receive \$30 million per year through 2033.
- GCRF supports a grant program administered by MDA to stimulate growth and economic development in Pearl River, Stone, George, Jackson, Harrison, and Hancock counties.
 - The program requires at least a 20% match of funds. (The match amount is set by MDA.)
- MDA reviews and scores each project, and the GCRF Advisory Board casts a formal vote on projects; these actions generally only serve as a recommendation to the Legislature and are not binding.
- Ultimately, GCRF projects are chosen by the Legislature through the appropriation process.
 - A project must have its funding reappropriated each year, as applicable.

Comparison of Fellow Gulf States

No state utilizes the same method to administer its coastal restoration and resiliency funds.

1. Mississippi and Texas assigned the management of its GOMESA and Deepwater Horizon funds to multiple agencies.
2. Louisiana centralized the management of its GOMESA and Deepwater Horizon funds under one agency: the Louisiana Coastal Protection and Restoration Authority (CPRA).
3. Alabama centralizes administering of GOMESA and Deepwater Horizon funds under one agency, but a separate board has authority for decision-making regarding RESTORE funds.
4. In Florida and Louisiana, a portion of RESTORE funding goes directly to counties.

What effort have states made to develop a state coastal restoration and resiliency plan across funding streams?

1. Mississippi has no state plan.
2. Louisiana has a 50-year master plan that is funded on an annual basis and must be updated every 6 years.
3. The Texas General Land Office identifies Tier 1, 2, and 3 projects as part of its state plan; however, the plan has no dedicated funding source.
4. Florida (as well as Virginia, North Carolina, and New Jersey) has developed coastal resiliency plans that focus on preparing its coast for rising sea levels. These plans incorporate some restoration tools.



SUMMARY OF RECOMMENDATIONS

Option A – The Legislature should consider establishing a formal coastal resiliency and restoration coordinating committee to establish a state coastal resiliency and restoration master plan and monitor the impact and effectiveness of the state's coastal resiliency and restoration efforts.

Option B – The Legislature should require MDMR, MDEQ, and MDA to coordinate to develop a state coastal resiliency and restoration master plan and submit the plan to the Speaker of the House, Lieutenant Governor, and the PEER Committee by December 15, 2024.

Impact: Legislative Support

Legislative Assistance

PEER Committee rules state that PEER staff will provide assistance to any legislator or legislative committee upon request. During FY 2023, PEER staff completed 77 legislative assistance requests, ranging from simple information and data requests to more complex direct assistance on behalf of committees or subcommittees.

The following list illustrates the types of assistance provided by PEER staff:

- Attorney General Office's Cyber Crime Division;
- PERS analysis;
- state government purchasing;
- infant mortality rates;
- child support; and,
- inflation and real estate valuation.

Appointee Background Investigations

Since 1977, Senate committees have routinely requested PEER staff to conduct background investigations of appointees to assess each appointee's compliance with statutory qualifications and general fitness to hold office prior to their consideration for advice and consent of the Senate. During FY 2023, PEER staff completed 94 background investigations of gubernatorial and other appointees named to state boards or commissions. Some of the more notable background investigations included appointees to the:

- State Board of Education;
- Information Technology Services Authority;
- Mississippi Lottery Corporation Board of Directors;
- State Board of Mental Health;
- Board of Animal Health;
- State Board of Physical Therapy;
- State Parole Board; and,
- Selected state agency executive directors.

James F. (Ted) Booth, Executive Director

Reapportionment

Ben Collins

Administration

Kirby Arinder

Stephanie Harris

Gale Taylor

Quality Assurance and Reporting

Tracy Bobo

Hannah Jane Costilow

Performance Evaluation

Lonnie Edgar, Deputy Director

Jennifer Sebren, Deputy Director

Drew Allen

Taylor Burns

Emily Cloys

Kim Cummins

Matthew Dry

Matthew Holmes

Drew Johnson

Billy Loper

Debra Monroe

Meri Clare Ringer

Sarah Williamson

Julie Winkeljohn

Ray Wright